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October 9, 2020

VIA E-MAIL

Magistrate Judge James L. Cott
United States District Court
Southern District of New York
500 Pearl Street, Room 1360
New York, New York 10007

**RE: *Miller v. Brightstar Asia, Ltd.*, Case No. 1:20-cv-4849-GBD-JLC
Letter-Motion Requesting Leave to Withdraw Motion to Dismiss**

Dear Magistrate Judge James L. Cott:

This firm represents Defendant, Brightstar Asia, Ltd. ("Brightstar Asia"), in the above-referenced action. Pursuant to Local Civil Rule 7.1(d), we write to respectfully request leave to withdraw, without prejudice, Brightstar Asia's motion to dismiss Plaintiff's original Complaint (Dkt. 21), in light of Plaintiff's recently filed First Amended Complaint. (Dkt. 24)

On September 11, 2020, Brightstar Asia filed its motion to dismiss the Complaint in its entirety for lack of subject matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1) or, alternatively, for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6). (Dkt. 21.)¹ On September 30, 2020, Plaintiff filed his First Amended Complaint (Dkt. 24) pursuant to Fed. R. Civ. P. 15(a)(1), amending his allegations and causes of action and adding additional claims and requests for relief.

In light of Plaintiff's First Amended Complaint, Brightstar Asia requests leave to withdraw its motion to dismiss and supporting documents without prejudice to filing a motion to dismiss the First Amended Complaint, which Brightstar Asia hereby reserves the right to do. My co-counsel, Peter Sales, consulted with Plaintiff's counsel, Eugene Bulso, on October 9, 2020, and Plaintiff does not object to this motion to withdraw. Thank you in advance for the Court's consideration of this request.

Respectfully submitted,

/s/ Kristina A. Reliford

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¹ Brightstar Asia filed its motion to dismiss and supporting documents at Docket 19 on September 11, 2020, but, due to a deficient docket entry raised by the Court on September 28, 2020, Brightstar Asia was required to re-file the motion. On September 28, 2020, Brightstar Asia re-filed its motion to dismiss (Dkt. 21), memorandum of law in support (Dkt. 22), and Declaration of Jack A. Negro in support (Dkt. 23).